THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO.6729 of 2005

ORDER: (Per JC,J)

This writ petition is filed with a prayer as follows:

> *"…to issue a writ or direction, especially one in the nature of Writ of Certiorari or any other appropriate writ and set aside the order dt.15.10.2004 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad in O.S.No.6643 of 2003 and to grant such other relief or reliefs…"*

Respondents 1 to 3 applied for the posts of Deputy Superintendent of Police in response to the notification issued by the writ petitioner-Public Service Commission in Advertisement No.5/1998, dated 24.06.1998. Admittedly, in the said notification it was indicated that 19 vacancies of Deputy Superintendent of Police, falling in the services under Group-I, were notified by the writ petitioner. Along with the said posts, various other posts of the same group were also notified, the details of which are not necessary for the present purpose. The respondents 1 to 3 and all other competing candidates appeared for the written examination conducted by the writ petitioner. Respondents 1 to 3 also appeared for the interviews conducted by the writ petitioner. Eventually, the writ petitioner published a list of 10 successful candidates for the posts of Deputy Superintendent of Police. The respondents were taken by surprise as the original notification indicated that 19 posts of Deputy Superintendent of Police are required to be filled up, but the results published by the writ petitioner communicated that only 10 such posts were going to be filled up. Therefore, they approached the Andhra Pradesh Administrative Tribunal in O.A.No.6643 of 2003 with a prayer as follows:

> *"Application filed under Section 19 of the Administrative Tribunals Act, 1985, praying the Tribunal to declare the action of the official respondents in*

withdrawing (9) vacancies in the category of Deputy Superintendents of Police notified to be filled by direct recruitment pursuant to advertisement No.5/98 as illegal, arbitrary and unconstitutional and consequently direct the respondent Nos.1 and 2 to fill up all the vacancies of Deputy Superintendent of Police earmarked for direct recruitment which were available up the cut off date stipulated in advertisement No.5/98 with the meritorious candidates with all consequential benefits."

The respondent-State filed a counter affidavit in the said O.A., in substance indicating that subsequent to the notification dated 24.06.1998, the state of Andhra Pradesh communicated to the writ petitioner that the selections be made only for 10 vacancies of the posts of Deputy Superintendent of Police instead of 19 as was originally notified.

The Administrative Tribunal, on consideration of the pleadings and the material placed before it, came to the conclusion that the decision of the State of Andhra Pradesh communicated through its memo, dated 02.06.1999, to the writ petitioner to fill up only 10 posts of Deputy Superintendent of Police but not 19 as was originally notified, is illegal and consequently the Tribunal directed the writ petitioner to take up appropriate steps for selecting suitable candidates for filling up of all the 19 posts of Deputy Superintendent of Police as was originally notified.

The conclusion of the Tribunal that the decision of the State of Andhra Pradesh as communicated to the respondents by its memo, dated 02.06.1999, to fill up only 10 posts of Deputy Superintendent of Police through the selection process in substance withdrawing 9 posts of Deputy Superintendent of Police from the selection process cannot be sustained, is not challenged by the State of Andhra Pradesh. Therefore, the consequential direction insofar as the writ petitioner does not call for any interference.

The role of the Service Commission in the matter of appointments to services under the State is contained under Article 320 of the Constitution of India, which says that it shall be the duty of the Public Service Commission to conduct examinations for appointments to the service of the State. Necessarily, the

obligation arising under Article 320 carries with it, logically, the further obligation to communicate and publish the results of such examination for the purpose of filling up the posts for which posts the examination is conducted. We therefore, do not see any error in the decision of the Andhra Pradesh Administrative Tribunal challenged before us.

The only submission made by the learned counsel for the writ petitioner is that at this stage, after a lapse of 7 years, if the direction of the Tribunal is to be implemented it would involve a great deal of exercise on the part of the Service Commission as the examination was conducted not only for the posts of Deputy Superintendent of Police but to 18 other categories of posts belonging to the same group. This argument, in our considered opinion, is only to be stated as rejected, as there is a constitutional obligation of the Service Commission to conduct the examinations to enable the State to fill up the various posts to be filled up by the State. Such an obligation necessarily involves a onerous exercise, but that cannot be an execuse to decline the discharge of an obligation mandated by the Constitution of India.

Accordingly, the writ petition is dismissed.

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J.CHELAMESWAR, J.

Date: 28.07.2005.

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M.VENKATESWARA REDDY, J.

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